

projected incurred claims and allowable administrative expenses:

(1) *Contractor performance.* OPM will consider such elements as the accurate and timely processing of benefit claims and the volume and validity of disputed claims as measures of economical and efficient contract performance. This factor will be judged apart from the contractor's *basic* responsibility for contract performance and will be a measure of the extent and nature of the contractor's contribution to the FEHBP through the application of managerial expertise and effort. Evidence of effective contract performance will receive a plus weight, and poor performance or failure to comply with contract terms and conditions a negative weight. Innovations of benefit to the FEHBP generally a plus weight, documented inattention or indifference to cost control a negative weight.

(2) *Contract cost risk.* OPM will consider such underwriting elements as the availability of margins, group size, enrollment demographics and fluctuation, and the probability of conversion and adverse selection, as well as the extent of financial assistance the carrier renders to the contract, in assessing the degree of cost responsibility and associated risk assumed by the contractor as a factor in negotiating profit. It should be noted that the "loss carry forward basis" of experience rated group insurance practices limits this factor in an overall determination of profit. This factor is intended to provide profit opportunities commensurate with the contractor's share of *cost* risks only, taking into account such elements as the adequacy and reliability of data for estimating costs, etc., offset by the "loss carry forward basis" of experience rating.

(3) *Federal socioeconomic programs.* OPM will consider documented evidence of successful, contractor-initiated efforts to support such Federal socioeconomic programs as drug and substance abuse deterrents, and other concerns of the type enumerated in FAR 15.905-1(c) as a factor in negotiating profit. This factor will be related to the quality of the contractor's policies and procedures and the extent of unusual effort or achievement demonstrated. Evidence of effective support of Federal socioeconomic programs will receive a plus weight; poor support will receive a negative weight.

(4) *Capital investments.* This factor is generally not applicable to FEHBP contracts because facilities capital cost of money may be an allowable administrative expense. Generally, this factor shall be given a weight of zero. However, special purpose facilities or investments costs of direct benefit to the FEHBP that are not recoverable as allowable or allocable administrative expenses may be taken into account in assigning a plus weight.

(5) *Cost control.* OPM will consider contractor-initiated efforts such as improved benefit design, cost-sharing features, innovative peer review, or other professional cost containment efforts as a factor in negotiating profit. This factor shall be used to reward contractors with additional profit opportunities for self-initiated efforts to control contract costs.

(6) *Independent development.* OPM will consider any profit opportunities that may be directly related to relevant independent efforts such as the development of a unique and enhanced customer support system that is of demonstrated value to the FEHBP and for which developmental costs have not been recovered directly or indirectly through allowable administrative expenses. This factor will be used to provide additional profit opportunities based upon an assessment of the contractor's investment and risk in developing techniques, methods, practices, etc., having viability to the program at large. Improvements and innovations recognized and rewarded under any of the other profit factors cannot be considered.

(b) The weight ranges for each factor to be used in the weighted guidelines approach are set forth below:

Profit factor	Weight ranges (percent)
1. Contractor performance ....	-.2 to +.45.
2. Contract cost risk* .....	+.02 to +.2.
3. Federal socioeconomic programs.	-.05 to +.05.
4. Capital investments .....	0 to +.02.
5. Cost control .....	0 to +.35.
6. Independent development	0 to +.03.

\*The contract cost risk factor is subdivided into two parts: group size (.02 to .10) and other risk elements (0 to .10). With respect to the group size element, subweights should be assigned as follows:

Enrollment	Weight (percent)
10,000 or less .....	.06 to .10.
10,001-50,000 .....	.05 to .09.
50,001-200,000 .....	.04 to .07.
200,001-500,000 .....	.03 to .06.
500,001 and over .....	.02 to .04.

## PART 1616—TYPES OF CONTRACTS

### Subpart 1616.1—Selecting Contract Types

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### Subpart 1616.70—Negotiated Benefits Contracts

1616.7001 Clause—contracts based on a combination of cost and price analysis (community rated).

1616.7002 Clause—contracts based on cost analysis (experience rated).

AUTHORITY: 5 U.S.C. 8913; 40 U.S.C. 486(c); 48 CFR 1.301.

SOURCE: 52 FR 16041, May 1, 1987, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 1616 appear at 55 FR 27415, July 2, 1990.

### Subpart 1616.1—Selecting Contract Types

#### 1616.102 Policies.

All FEHBP contracts shall be negotiated benefits contracts.

[62 FR 47575, Sept. 10, 1997]

EFFECTIVE DATE NOTE: At 62 FR 47575, Sept. 10, 1997, section 1616.102 was revised, effective October 10, 1997. For the convenience of the user, the superseded text is set forth below:

#### 1616.102 Policies.

(a) FEHBP contracts in which benefits provided and subscription income are based on community rating (i.e., established market price) shall be negotiated fixed-price contracts with economic price adjustments.

(b) FEHBP contracts in which benefits provided and subscription income are based on experience rating shall be a combination of negotiated fixed-price contracts with provisions for a form of retroactive price redetermination.

#### 1616.105 Solicitation provision.

FAR 16.105 has no practical application because the statutory provisions of 5 U.S.C. chapter 89 obviate the issuance of solicitations.

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### Subpart 1616.2—Fixed-Price Contracts

EFFECTIVE DATE NOTE: At 62 FR 47575, Sept. 10, 1997, subpart 1616.2 was removed, effective Oct. 10, 1997.

#### 1616.270 Clause—contracts based on established market price (community rate).

The clause at 1652.216–70 shall be inserted in all FEHBP contracts based on established market price.

#### 1616.271 Clause—contracts based on cost analysis (experience rate).

The clause at 1652.216–71 shall be inserted in all FEHBP contracts based on cost analysis.

### Subpart 1616.70—Negotiated Benefits Contracts

SOURCE: 62 FR 47575, Sept. 10, 1997, unless otherwise noted.

EFFECTIVE DATE NOTE: At 62 FR 47575, Sept. 10, 1997, subpart 1616.70 was added, effective Oct. 10, 1997.

#### 1616.7001 Clause—contracts based on a combination of cost and price analysis (community rated).

The clause at section 1652.216–70 shall be inserted in all FEHBP contracts based on a combination of cost and price analysis (community rated).

#### 1616.7002 Clause—contracts based on cost analysis (experience rated).

The clause at section 1652.216–71 shall be inserted in all FEHBP contracts based on cost analysis (experience rated).